

Central Administrative Tribunal, Principal Bench
New Delhi.

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OA No. 1377 of 1993

New Delhi, this the 22nd day of April, 1994.

Hon'ble Mr B.N.Dhondiyal, Member(A)

Shri Anil Kumar R/O D-14, Jangpura Extension
and Ex. Junior Engineer PWD(Elect), Office of
the Supdt. PWD Electrical Cir.I, I. P. Bhawan,
New Delhi. Applicant.

(through Mr Gyan Prakash, counsel).

V.S.

1. Union of India - through

Secretary, Department of Urban Development,
(Earlier-Ministry of Works & Housing)
Nirman Bhawan, New Delhi.

2. Director General(Works)
CPWD,
Nirman Bhawan,
New Delhi.

3. Chief Engineer,
PWD
Kasturba Gandhi
New Delhi.

4. Supdt. Engineer(Electrical)
PWD(Electrical Circle I)
Delhi Administration, IP Bhawan Estate,
New Delhi.2.

... Respondents.

(through Ms Meera Chhiber, Advocate).

Order

(by Hon'ble Mr B.N.Dhondiyal, Member(A))

The material averments made in this O.A. are these. The applicant was appointed as Junior Engineer in PWD on 2.8.1976 in the pay scale of Rs. 425-700. He was declared permanent for the post of J.E. w.e.f. 1.4.1981. He applied through proper channel for the post of Small Scale Industries Field Officer to Banking Service Recruitment Board, Lucknow on the basis of advertisement published in newspapers in New Delhi. On his selection, he joined Allahabad Bank w.e.f. 25.9.84

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after he was relieved from duties as Junior Engineer(Elect) in Public Works Department w.e.f. 24.9.1984. The relieving order dated 24.9.1984 provided that his lien in the PWD shall be retained for a period of two years. He was absorbed with the Allahabad Bank w.e.f w.e.f. 25.9.1986. His lien was terminated by order dated 6.12.1990.

From time to time, the applicant has been requesting the PWD authorities to advise him on leave, salary and pension contribution but he received no reply. The applicant claims that he is entitled to pro rata pension as at the time of permanent absorption in the Bank he had served the department for 10 years, 1 month and two days including the lien period of two years. However, by the impugned order dated 13.8.1992, his claim has been rejected by the respondents on the ground that the services rendered by him before leaving the PWD comes to less than 10 years. The short issue, raised in the O.A., therefore, is whether the period from the date of relieving from the PWD to the date of absorption in the Bank, i.e. from 25.9.84 to 25.9.86 shall count for fixing the pro rata pension.

2. The learned counsel for the Respondents has drawn our attention to Rule 14 of the CCS (Pension) Rules, which reads as under:

" 14. Conditions subject to which service qualifies:

- (1) The service of a Government servant shall not qualify unless his duties and pay are regulated by the Government, or under conditions determined by the Government.
- (2) For the purposes of sub-rule(1), the expression "service" means service under the Government and paid by that Government from the Consolidated Fund of India or a Local Fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by that Government.
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Here, the service rendered by the applicant with the Bank cannot be regarded as eligible service under clause(2) of Rule 14, quoted above. She has also drawn ~~attention of~~ ^{bw} to the Office Order dated 24.9.1984, which clearly mentions that the technical resignation of Shri A.K.Rana, applicant is accepted w.e.f. 24.9.1984. The two years lien period, according to her was only to provide for contingency that the applicant may have to return to his parent department. The learned counsel for the applicant has drawn our attention to the last line of Rule 14(2) which mentions that the Govt. cannot ^{bw} treat any service as qualifying service for the purpose of pension. According to him, the Govt. have issued instructions in Appendix 12 for grant of pro-rata retirement benefits to Central Government Servants permanently transferred to autonomous bodies, Public Sector Undertakings etc. Para 4(i) of the Appendix reads;

" 4.

(i) A permanent Government servant on absorption in public undertaking is eligible for pro rata pension and Retirement Gratuity based on the length of his qualifying service under Government till the date of absorption. The pension will be calculated on the basis of average emoluments for three years (now ten months) preceding the date of absorption and the Retirement Gratuity on the basis of the emoluments immediately before absorption.!"

3. In this case, ^{in bw} the endorsement to the office order dated 24.9.1984 (Annexure A-3), it is also mentioned that Shri A.K.Rana's lien will be retained in PWD for a period of two years, after expiry of which he shall submit his resignation or revert to that department. It is also mentioned that the pension and leave salary contribution charged etc. shall be paid by the Allahabad Bank or by Shri Rana.

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4. In this Tribunal for consideration, in OA. No. 177/93, decided on 3.9.1993 and the following observations were made:

" So far as he keeps his lien in the parent department, that service will have to be counted for the purpose of pro-rata pension..... It is incumbent upon the respondents to add three years service of the applicant to count for the purpose of pro-rata pension and in that event of the matter, he will be entitled to get pro-rata pension.

5. Agreeing with the views expressed in the aforementioned judgment, the application is allowed and the respondents are directed to count the period from 29.5.1984 to 25.9.1986 i.e. during which period the applicant retained his lien in the CPWD, for the purpose of fixing pro-rata pension. The respondents shall implement this order as expeditiously as possible, preferably within a period of three months from the date of communication of this order.

6. There will be no order as to costs.

B. N. Dhoundiyal
(B. N. Dhoundiyal)
Member(A)

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